

MICHAEL R. GANLEY, PARTNER*
MGANLEY@BHSPA.COM

*LICENSED IN NC & SC

BAGWELL HOLT SMITH P.A.
ATTORNEYS AT LAW
111 CLOISTER COURT, SUITE 200
CHAPEL HILL, NORTH CAROLINA 27514
TELEPHONE: (919) 401-0062
FACSIMILE: (919) 403-0063
www.bhspa.com

December 28, 2020
Via First Class Mail

R. Gregory Tomchin
Cranford, Buckley, Schultze, Tomchin, Allen & Buie, P.A.
7257 Pineville-Matthews Road, Suite 2100
Charlotte, NC 28226

Re: Presque Isle Villas – Deck Repairs

Mr. Tomchin:

This office represents Presque Isle Villas Condominium Homeowners Association, Inc. (the "HOA"). The purpose of this letter is to serve as a response to your letter dated December 17, 2020 on behalf of Hayden Rose.

Pursuant to Section 6 of the Declaration of Condominium for Presque Isle Villas, as recorded in Book 2233 Page 287, Orange County Register of Deeds (the "Declaration") the HOA is responsible for the maintenance, painting, repair and replacement of Limited Common Areas and Facilities. However, Section 6 of the Declaration does not provide a mechanism for payment of costs associated with maintenance of the Limited Common Areas and Facilities, nor does the Declaration provide that the HOA bears the costs of maintaining the decks, as asserted in your letter. Section 9 of the Declaration states that assessments levied by the Association shall be used "for the improvement and maintenance of the common area". Section 9 does not reference that assessments are to be used for Limited Common Areas and Facilities.

In lieu of an unambiguous statement in the Declaration, N.C.G.S. §47C-3-107 provides that the maintenance of a limited common element shall be assessed as provided in N.C.G.S. §47C-3-115(b). N.C.G.S. §47C-3-115(b) provides that except for assessments under 47C-3-115(c), all assessments must be assessed against the units based on the percentages. N.C.G.S. §47C-3-115(c) provides that any common expense associated with the maintenance of a limited common element must be assessed against the units to which that limited common element is assigned.

Accordingly, under the Declaration and the North Carolina Condominium Act, the HOA is authorized to assess the unit owner(s) for any maintenance and repair of a limited common element. Thank you.

Sincerely,

Michael R. Ganley
Attorney at Law

cc: Staci Green, Community Association Management, Ltd.
Board of Directors, Presque Isle Villas Condominium Homeowners Association, Inc.

400 MARKET STREET • SUITE 202 • CHAPEL HILL, NC 27516 • PHONE: (919) 932-2225 • FAX: (919) 932-2212
2000 AERIAL CENTER PARKWAY • SUITE 110 8C • MORRISVILLE, NC 27560 • PHONE: (919) 460-2920 • FAX: (919) 465-3342
7 CORPORATE CENTER COURT • SUITE B • GREENSBORO, NC 27408 • PHONE: (336) 369-2191 • FAX: (336) 282-3797
105 E. CENTER STREET • SUITE B10 • MEBANE, NC 27302 • PHONE: (919) 401-0062 • FAX: (919) 595-6524
136-4 FORUM DRIVE • COLUMBIA, SC 29229 • PHONE: (803) 701-1004

BHS000053